

REMARKS

This Application has been carefully reviewed in light of the Official Action issued April 21, 2011. Claims 1, 5-9, 11, 14-16, 19, and 21-24 are currently pending in this application. Applicant respectfully requests reconsideration and favorable action in this Application.

The drawings stand objected to under 37 C.F.R. §1.83(a) as not showing every feature of the invention specified in the claims. Attached herewith is a Replacement Sheet showing changes made to FIGURE 14 addressing matters raised by the Examiner. Applicant's specification discloses a midsole that is also a feature of Claims 8, 9, and 20. FIGURE 14 has been amended to include a midsole 829 as requested by the Examiner. Applicant's specification discloses the thickness, shape, and exact location for a midsole at page 22, lines 7-12, and page 29, lines 11-13. In particular, the specification states that the midsole provides cushioning, the shape of the midsole includes substantially planar surfaces, and the exact location of the midsole is between the insole and the outsole. Therefore, Applicant respectfully submits that the drawings do not contain new matter and are in compliance with 37 C.F.R. §1.83(a).

The drawings stand objected to for being inconsistent with Applicant's specification. Applicant's specification discloses that a point 824 is approximately halfway across a length of shoe 810 that is also a feature of Independent Claims 1, 11, and 16. FIGURE 14 has been amended to show that point 824 is substantially halfway across a length of the shoe as requested by the Examiner. The location of point 824 is disclosed at page 29, lines 16-20, of Applicant's specification. Therefore, Applicant respectfully submits that the drawings are in compliance with 37 C.F.R. §1.83(a).

Claims 1, 5-9, 11, 14-16, and 19-24 stand rejected under 35 U.S.C. §112, first paragraph, for containing subject matter not described in the specification. FIGURE 14 has been amended to be consistent with Applicant's specification by showing a midsole and that point 824 is substantially halfway across a length of the shoe. Thus, one of ordinary skill in the art would clearly recognize from Applicant's specification that the midsole provides cushioning, the exact location of the midsole is between the insole and the outsole, and the midsole has a shape with planar surfaces to allow the negative heel configuration to be provided by the insole in accordance with the claimed invention. Therefore, Applicant respectfully submits that Claims 1, 5-9, 11, 14-16, and 19-24 are in compliance with 35 U.S.C. §112, first paragraph.

Applicant notes with appreciation the allowance of Claims 1, 5-9, 11, 14-16, 19, and 20. With the submission of the replacement drawing sheet, Applicant respectfully submits that the Application is now in condition for allowance.

Applicant respectfully requests a two month extension of time for submitting this Response to Examiner's Action. Attached herewith is a Notification of Extension of Time in support thereof.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If there are matters that can be discussed by telephone to advance prosecution of this Application, Applicant invites the Examiner to contact the undersigned attorney at the number provided below.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

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